

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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REQUEST FOR RULEMAKING (RFR)

1. Department:

State

2. Bureau:

Elections & Campaign Finance

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Campaign Financing

5. Rule numbers or rule set range of numbers:

169.36 (Amend)

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

Update Rule 169.36, last amended in 1982, to accommodate and incorporate social media platforms.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

The Secretary of State shall promulgate rules. MCL 169.215(1)(e)

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 169.215, 169.247

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 169.215 says that the "Secretary of State shall promulgate rules" regarding the interpretation of the Campaign Finance Act.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

No

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The MCFA authorizes the Secretary of State to investigate campaign finance complaints filed with the Department. A complaint was filed alleging the paid for by statement drafted on a social media ad by a candidate was insufficient because it did not contain the full mailing address of the committee paying for the information. The candidate responded by saying she was not able to comply with the rules due to character limitations set in place by social media platforms such as Facebook and Twitter. The full file is available on the Department's website:
https://www.michigan.gov/documents/sos/Hatton_v._Ayanna_Neal_655094_7.pdf

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

Rule was last amended in 1982, well before advances in technology have allowed candidates to advertise through social media and the internet.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No